

Introduced by Senator WaltersFebruary 21, 2014

An act to amend Section 25 of the Penal Code, relating to criminal liability.

LEGISLATIVE COUNSEL'S DIGEST

SB 1427, as introduced, Walters. Criminal liability: diminished capacity.

Existing law, as added by Proposition 8, adopted June 8, 1982, among other things, abolished the defense of diminished capacity. Existing law prohibits, in a criminal action, as well as any juvenile court proceeding, evidence concerning an accused person's intoxication, trauma, mental illness, disease, or defect from being admissible to show or negate capacity to form the particular purpose, intent, motive, malice aforethought, knowledge, or other mental state required for the commission of the crime charged.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25 of the Penal Code is amended to read:
- 2 25. (a) The defense of diminished capacity is hereby abolished.
- 3 In a criminal action, as well as ~~any~~ a juvenile court proceeding,
- 4 evidence concerning an accused person's intoxication, trauma,
- 5 mental illness, disease, or defect shall not be admissible to show
- 6 or negate capacity to form the particular purpose, intent, *malice*

1 *aforethought*, motive, ~~malice-aforethought~~, knowledge, or other
2 mental state required for the commission of the crime charged.

3 (b) In any criminal proceeding, including any juvenile court
4 proceeding, in which a plea of not guilty by reason of insanity is
5 entered, this defense shall be found by the trier of fact only when
6 the accused person proves by a preponderance of the evidence that
7 he or she was incapable of knowing or understanding the nature
8 and quality of his or her act and of distinguishing right from wrong
9 at the time of the commission of the offense.

10 (c) Notwithstanding the foregoing, evidence of diminished
11 capacity or of a mental disorder may be considered by the court
12 only at the time of sentencing or other disposition or commitment.

13 (d) The provisions of this section shall not be amended by the
14 Legislature except by statute passed in each house by rollcall vote
15 entered in the journal, two-thirds of the membership concurring,
16 or by a statute that becomes effective only when approved by the
17 electors.